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DEPT FOR DRL, EAP/CM

E.O. 12958: DECL: 11/21/2031

TAGS: PHUM PGOV CH

SUBJECT: HUMAN RIGHTS: CHEN GUANGCHENG TRIAL POSTPONED;  
LAWYERS URGE CONTINUED INTERNATIONAL ATTENTION

REF: BEIJING 23815

Classified By: Classified by Political Internal Unit Chief Susan Thornton. Reasons 1.4 (b) and (d).

¶1. (C) Summary. Chen Guangcheng's wife reported to poloff that Chen's retrial, previously scheduled for November 20, was postponed. Chen's lawyer, Li Fangping, believes the trial will go forward on November 27, after the trial judge has had more time to prepare and local officials have "prepared the ground" by intimidating potential witnesses. Chen's lawyers said that they are optimistic that the retrial result will favor Chen, but they acknowledged that such a result would likely involve political manipulation of the court. They argued, however, that the appearance of a just result, even if arrived at unjustly, would elevate people's faith in the legal system and spur rights consciousness. End summary.

¶2. (C) Chen Guangcheng's wife, Yuan Weijing, told poloff that the Yinan County court in Shandong Province decided to postpone Chen's retrial on charges of obstructing traffic and destroying public property. Lead attorney Li Fangping told poloff on November 21 that he believes the retrial will take place November 27, though no new date has yet been set for the retrial. Li said he will have an opportunity to meet with Chen again before the trial.

¶3. (C) Attorney Li speculated that Chen's retrial was postponed because the judge needs more time to study applicable trial procedure, in order to avoid the blatant errors made in the original trial proceeding. Li added that local authorities may also require more time to "prepared the ground" for the trial by intimidating witnesses called by Chen's lawyers to testify at the retrial. Officials want to minimize witness participation, Li said, in order to limit information flowing out of the Yinan County courtroom. Li Fangping and Jiang Tianyong, another of Chen's lawyers, told poloff they expect that no witnesses will testify at the retrial.

¶4. (C) The attorneys told poloff that they do not believe the decision to grant Chen a retrial reflects real commitment to the rule of law on the part of government officials. China's Central Government, they explained, put pressure on Shandong officials to conduct a retrial to create an appearance of respect for rule of law and to deflect criticism of China's legal system. Central Government officials are concerned that continued execution of the original judgment against Chen will foment anger among Chen's supporters and lead to possible unrest. Chinese

leaders, the lawyers asserted, want to avoid further international criticism related to Chen's case.

¶15. (C) Despite Li Fangping's view that Chinese officials are not motivated by genuine respect for rule of law, he is optimistic that the retrial will produce a favorable result for Chen. Li said he would urge supporters, including foreign governments, to maintain pressure for Chen's release. Li acknowledged U.S. Government involvement in Chen's case and said he hoped for a more proactive position on the part of EU countries.

¶16. (C) Although Li suspects that extra-legal considerations will dictate the result in Chen's retrial, he argued that the mere appearance of a just result will increase citizens' faith in the legal system and spur rights consciousness. A positive outcome for Chen will heighten public expectations for rule of law, send a message that local government officials must tread more carefully in future cases and strengthen the hand of lawyers and journalists committed to promoting rights protection.

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